IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Writ Petition No. 161 of 2004 (M/B)

Date of decision: 27th April, 2006

A.F.R. (Approved for Reporting)
Not Approved for Reporting

Date: 27.4.2006

Initials of Judge

Note: Bench Reader will attach this at the top of first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 161 of 2004 (M/B)

Karam Pal Singh S/o Sri Asha Ram,
R/o Village and Post Chandarpuri,
Tehsil Laksar, District Haridwar. …… Petitioner.

Versus

1. State of Uttaranchal,
through Secretary,
Panchayat Raj, Dehradun.
2. District Magistrate,
Haridwar. ……. Respondents

Mr. M.S. Tyagi, Advocate for the petitioner.
Mr. Subhash Upadhyaya, Standing Counsel for the State of Uttaranchal.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. M.S. Tyagi, Advocate for the petitioner.

Mr. Subhash Upadhyaya, Standing Counsel for the respondents.

They are heard.

2. Petitioner Karam Pal Singh, claiming himself to be the Pradhan of Gram Panchayat Chandarpuri Bangar, filed this writ petition for the following reliefs:

> "1. A writ, order or direction in the nature of certiorari quashing part of the Government order dated 31.07.2002 by which the Government of Uttaranchal created a new Village Panchayat by name Chandarpuri Khadar by dividing the existing Gram Panchayat Chandarpuri Bangar.
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> 2. A writ, order or direction in the nature of mandamus commanding the Respondents not to proceed with division of abadi of Revenue Village Chandarpuri Bangar and thereby create a separate Gram Panchayat Chandarpuri Khadari.
>
> 3. Any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.
>
> 4. Award cost of the Petition to the Petitioner."

3. The petitioner is aggrieved of the creation of a new Village Panchayat Chandarpuri Khadar.

4. The petitioner's case is that Village Panchayat Chandarpuri Khadar was created by dividing Village Panchayat Chandarpuri Bangar which is prohibited by the Second Proviso to Sub-Section (1) of Section 11 F of the U.P. Panchayat Raj Act, 1947.

5. Section 11F of the U.P. Panchayat Raj Act, 1947, as amended for it's application to the State of Uttaranchal, reads as follows:

> **"11-F. Declaration of Panchayat area**. – (1) For the purposes of this Act the State Government may by notification declare any area comprising a village or group of villages, having, so far as practicable, a population of 300 in hill area and 1000 in plane area to be a Panchayat area for the purpose of this Act by such name as may be specified:
>
> Provided that the population shall not exceed 1000 in hill area and 5000 in plane area of the state as far as practicable:
>
> Further provided that for the purpose of declaration of a Panchayat area no revenue village or any hamlet thereof shall be divided:
>
> Also provided that if it is not practically possible to allow the above provisions then the State Government may relax the aforesaid restrictions by order in the specific and unavoidable circumstances.
>
> (2) The State Government may, on the request of the Gram Panchayat concerned or otherwise, and after previous publication of the proposal, by notification at any time-
>
> (a) modify the area of any Panchayat area by including therein or excluding therefrom any area of a village or group of villages;
> (b) after the name of the Panchayat area; or
> (c) declare that any area shall cease to be a Panchayat area."

6. A bare perusal of Section 11F reveals that what is barred is division of revenue village or hamlet. In the present case, on inquiry it was found by the authorities that several villagers who had their agricultural lands in village Chandarpuri Khadar were residing at a

higher place away from their agricultural lands at the border of the two villages namely Chandarpuri Khadar and Chandarpuri Bangar.

7. Section 11F of the Act permits creation of a Village Panchayat for a population of 300 in hill area and 1000 in plane area. The population of Chandarpuri Khadar and Chandarpuri Bangar as per 1991 Census was 1048 and 1326 respectively. As the population of Village Chandarpuri Khadar as per 1991 Census was more than 1000, the authorities were well within their rights in creating a new Village Panchayat Chandarpuri Khadar.

8. That apart, new Village Panchayat Chandarpuri Khadar was created on the representation of the residents of Village Chandarpuri Khadar which is placed on record as Annexure CA5. We further gather from para 13 of the counter affidavit of the District Magistrate that the hamlets of the inhabitants of Village Chandarpuri Khadar is on the eastern chunk of the abadi.

9. Thus, there is no illegality in the creation of new Village Panchayat Chandarpuri Khadar.

10. For the foregoing reasons, we do not find any substance in the grievances projected by the petitioner in the writ petition.

11. The writ petition, therefore, is liable to be dismissed and is, hereby, dismissed.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C.J.)**
27.04.2006 **27.04.2006**

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